MONTANA LEGISLATIVE HISTORY

Chapter 257 19 81

Bill H 66 S _____ Original bill & history ✓ C

H. Committee on State Admin.			S. Committee on Judiciary		
Hearing Date(s)	H 1/13	✓ C	Hearing Date(s)	2/3	✓ C
vote	1/14	✓ C	vote	3/24	✓ C
		C			C
		C			C
Date Out		C			

Did this bill originate in an interim committee? ____Yes ____No

Committee _____ Report _____

REPORT: 4/16, BE CONCURRED IN
2ND READING: 4/17, YEAS: 39; NAYS: 10
ON MOTION, 4/17, RULES SUSPENDED, PLACED ON 3RD READING
3RD READING: 4/17, YEAS: 38; NAYS: 12

RETURNED TO HOUSE WITH AMENDMENTS: 4/17
2ND READING: 4/21, YEAS: 79; NAYS: 3
ON MOTION, 4/21, RULES SUSPENDED, PLACED ON 3RD READING
3RD READING: 4/21, YEAS: 89; NAYS: 6

TRANSMITTED TO GOVERNOR: 4/23
ACTION: SIGNED, 4/29
CHAPTER 550

HB 64--EUDAILY--REGULATING DISBURSAL OF CAMPAIGN FUNDS....
PREFILED AND REFERRED TO COMMITTEE ON STATE
ADMINISTRATION: 12/30/80
HEARING: 1/12
REPORT: DO NOT PASS, 1/12
REPORT: ADOPTED 1/12
BILL KILLED: 1/12 YEAS: 81; NAYS: 8

HB 65--BRIGGS--TO PROVIDE GRADUATED TAXATION OF CERTAIN TELEPHONE COMMUNICATION PROPERTIES.
FISCAL NOTE: REQUIRED
PREFILED AND REFERRED TO COMMITTEE ON TAXATION: 12/30/80
HEARING: 1/21
REPORT: DO NOT PASS, 2/14
BILL KILLED: 2/16 YEAS: 93; NAYS: 3

HB 66--BENNETT, KEEDY, HARP, ET AL--CHANGING THE TIME WHEN INTEREST IS DRAWN ON AN AWARD IN A CONDEMNATION PROCEEDING....
FISCAL NOTE: REQUIRED
PREFILED AND REFERRED TO COMMITTEE ON STATE
ADMINISTRATION: 12/30/80
HEARING: 1/13
REPORT: DO PASS AS AMENDED, 1/14
2ND READING: 1/16 YEAS: 93; NAYS: 2
3RD READING: 1/17 YEAS: 85; NAYS: 3

TRANSMITTED TO SENATE: 1/17
REFERRED TO COMMITTEE ON JUDICIARY: 1/19
HEARING: 2/3
REPORT: 3/25, BE CONCURRED IN
2ND READING: 3/26, BE CONCURRED IN
3RD READING: 3/28, YEAS: 44; NAYS: 4

RETURNED TO HOUSE: 3/28
TRANSMITTED TO GOVERNOR: 4/1
ACTION: SIGNED, 4/3
CHAPTER 257

HB 67--FABREGA, GOODOVER--TO PROVIDE THAT SRS MAY ADMINISTER CERTAIN BUILDING AREAS FOR THE PURPOSE OF PROVIDING VENDING FACILITIES TO BLIND PERSONS....
FISCAL NOTE: REQUIRED
PREFILED AND REFERRED TO COMMITTEE ON BUSINESS AND INDUSTRY: 12/30/80
HEARING: 1/16
REPORT: DO PASS AS AMENDED, 2/4

HOUSE BILL NO. 66

INTRODUCED BY BENNETT, KEEDY, HARP, IVERSON, KEYSER, DAILY, PAVLOVICH, KANDUCH, ANDERSON, CONN

IN THE HOUSE

January 6, 1981	Introduced and referred to Committee on State Administration.
	On motion by chief sponsor, Representatives Keedy, Harp, Iverson, Keyser, Daily, Pavlovich, Kanduch, Anderson, Conn were added as authors to the pre-filed bill.
January 7, 1981	Fiscal note requested.
January 12, 1981	Fiscal note returned.
January 14, 1981	Committee recommend bill do pass as amended. Report adopted.
January 15, 1981	Bill printed and placed on members' desks.
January 16, 1981	Second reading, do pass.
January 17, 1981	Correctly engrossed.
	Third reading, passed. Transmitted to Senate.

IN THE SENATE

January 19, 1981	Introduced and referred to Committee on Judiciary.
March 25, 1981	Committee recommend bill be concurred in. Report adopted.
March 26, 1981	Second reading, concurred in.
March 28, 1981	Third reading, concurred in. Ayes, 44; Noes, 4

IN THE HOUSE

March 28, 1981

Returned from Senate. Concurred in. Sent to enrolling.

Reported correctly enrolled.

HOUSE BILL NO. 66

INTRODUCED BY BENNETT

A BILL FOR AN ACT ENTITLED: "AN ACT CHANGING THE TIME WHEN INTEREST IS DRAWN ON AN AWARD IN A CONDEMNATION PROCEEDING FROM THE TIME POSSESSION IS SURRENDERED TO THE TIME WHEN THE SUMMONS IS SERVED; AMENDING SECTION 70-30-302, MCA; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE."

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

Section 1. Section 70-30-302, MCA, is amended to read:

"70-30-302. Assessing compensation -- date and measure -- interest. (1) For the purpose of assessing compensation, the right thereto shall be deemed to have accrued at the date of the service of the summons, and its actual value as of that date shall be the measure of compensation for all property to be actually taken and the basis of depreciation in value of property not actually taken but injuriously affected. This shall not be construed to limit the amount of compensation payable by the department of highways under the provisions of any legislation enacted pursuant to the federal Highway Beautification Act of 1965.

(2) If an order be made letting the plaintiff into possession, as provided in 70-30-311, the full amount finally awarded shall draw interest at the rate of 10% per annum from the date ~~on-which-the-property-owner-surrenders possession-of-the-property-in-accordance-with-the--terms--of such--order~~ of the service of the summons to the earlier of the following dates:

(a) the date on which the right to appeal to the Montana supreme court expires or, if appeal is filed, to the date of final decision by the supreme court; or

(b) the date on which the property owner withdraws from court the full amount finally awarded.

(3) If the property owner withdraws from court a fraction of the amount finally awarded, interest on such fraction shall cease on the date it is withdrawn but interest on the remainder of the amount finally awarded shall continue to the earlier of the aforesaid dates defined in (2)(a) and (2)(b) of this section until the full amount is withdrawn from the court.

(4) None of the amount finally awarded shall draw interest after the date on which the right to appeal to the Montana supreme court expires.

(5) No improvements put upon the property subsequent to the date of the service of summons shall be included in the assessment of compensation or depreciation in value, nor shall the same be used as the basis of computing such compensation or depreciation."

Section 2. Applicability. This act applies to all

#66

judgments entered after the effective date of this act.

Section 3. Effective date. This act is effective on passage and approval.

-End-

STATE OF MONTANA

REQUEST NO. 48-81

FISCAL NOTE

Form BD-15

In compliance with a written request received January 8, 19 81, there is hereby submitted a Fiscal Note for House Bill 66 pursuant to Title 5, Chapter 4, Part 2 of the Montana Code Annotated (MCA). Background information used in developing this Fiscal Note is available from the Office of Budget and Program Planning, to members of the Legislature upon request.

Description of Proposed Legislation

An act changing the time when interest is drawn on an award in a condemnation proceeding from the time possession is surrendered to the time when the summons is served.

Assumptions

1. The Department of Highways is the only state agency affected by the proposed legislation.
2. The calendar year 1979 caseload at the Department of Highways is representative.

Fiscal Impact

	FY 1982	FY 1983	Biennium Total
Interest expense under current law	$137,900	$137,900	$275,800
Interest expense under proposed law	189,600	189,600	379,200
Increased interest expense due to proposed legislation	$ 51,700	$ 51,700	$103,400

The additional expense is to the Earmarked Revenue Fund.

David M Lewis

BUDGET DIRECTOR
Office of Budget and Program Planning
Date: 1-12-80

STATUS SHEET

STATE ADMINISTRATION COMMITTEE

47 Legislature

Bill No.	Subject matter	Date In	Sponsor	Hearing Date	Committee Action	Date Out
HB 64	AN ACT AMENDING SECTION 13-37-205, MCA, REGULATING DISBURSAL OF CAMPAIGN FUNDS AND REQUIRING REPORTING OF DISPOSITION OF UNUSED FUNDS.	1/7	EUDAILY	1/12/81	DO NOT PASS	1/12
HB 66	AN ACT CHANGING THE TIME WHEN INTEREST IS DRAWN ON AN AWARD IN A CONDEMNATION PROCEEDING FROM THE TIME POSSESSION IS SURRENDERED TO ~~TIME WHEN THE SUMMONS IS SERVED~~	1/7	BENNETT	1/13/81	DO PASS AS AMENDED	1/14/81
HB 72	AN ACT SETTING THE DATE FOR THE PRIMARY ELECTION & FOR THE PRESIDENTIAL PREFERENCE PRIMARY ELECTION;	1/7	HARPER	1/13/81	DO PASS	1/13
HB 74	AN ACT TO GENERALLY REVISE & CLARIFY THE LAWS RELATING TO ADMINISTRATIVE RULE-MAKING;	1/7	HARPER	1/12/81	put into sub-com. DO PASS AS AMENDED reconsidered DPAA	1/12/81 1/14/81 1/21/81 1/28/81
HB 83	AN ACT TO EXCEPT PROBATION & PAROLE OFFICERS FROM THE STATE CLASSIFICATION PLAN & PROVIDE A STATUTORY CLF. SYSTEM WITH PROBATIONARY & ~~ADVANCEMENT PROVISIONS.~~	1/7	MEYER	1/13/81	DO NOT PASS	1/13/81
HB 87	TO PROVIDE THAT CITY, COUNTY SCHOOL DIST. MILL LEVY BE VOTED ON BY AT LEAST 51% OF QUAL. ELECTOR.....	1/7	BURNETT	1/13/81	DO PASS AS AMENDED	1/14/81

Form CS-32
1-79

ROLL CALL

HOUSE STATE ADMINISTRATION COMMITTEE

47 LEGISLATIVE SESSION, 19 81

P= PRESENT
E= EXCUSED
L= LATE
A= ABSENT

Name	Date 1/8	1/9	1/12	1/13	1/14	1/15	1/16	1/19	1/20	1/21	1/22	1/23	1/26	1/27
AZZARA, JAMES	P	A	P	A	A	A	P	P	A	A	A	P	A	A
BRIGGS, HAROLD	P	P	P	P	P	P	P	P	L	P	P	P	P	P
DUSSAULT, ANN MARY	E	P	P	P	P	P	P	P	P	P	P	P	L	P
FEDA, G.C. (Chair.)	P	P	P	P	P	P	P	P	E	P	P	P	P	P
HANSON, BEN	P	P	P	P	P	P	P	P	P	P	P	P	P	P
HOLLIDAY, GAY	P	P	P	P	P	P	P	P	P	P	P	P	P	P
KANDUCH, JOE	P	P	P	P	P	P	P	E	L	P	P	P	P	A
KENNERLY, ROLAND	P	P	P	P	P	P	P	P	L	P	E	P	P	E
KROPP, PAUL	P	P	P	P	P	P	P	E	P	P	P	P	P	P
McBRIDE, KATHLEEN	P	P	P	P	P	P	P	P	P	P	P	L	P	P
MUELLER, GLENN	P	P	P	P	P	P	P	P	P	P	P	P	P	P
O'CONNELL, HELEN	E	E	P	P	P	P	E	P	A	P	P	P	P	P
PHILLIPS, JOHN	P	P	P	P	P	P	P	P	P	P	P	P	P	P
PISTORIA, PAUL	P	P	P	P	P	P	P	E	P	P	P	P	P	P
RYAN, JOHN	P	P	P	P	P	P	P	L	P	P	P	P	E	E
SALES, WALTER(V.C.)	P	P	P	P	P	P	P	E	P	P	P	P	P	P
SMITH, CARL	P	P	P	P	P	P	P	P	P	P	P	P	P	P
SPILKER, BOBBY	P	P	P	P	P	P	P	P	P	P	P	P	P	P
WINSLOW, CALVIN	P	P	P	P	P	P	P	E	P	P	P	P	P	P

STATE ADMINISTRATION
JANUARY 13, 1981
RM 436

The meeting of the House State Administration Committee was called to order by Chairman Jerry Feda at 8:00 a.m. on January 13, 1981. All members were present except Representative Azzara who was absent.

Chairman Feda opened the hearing on House Bill 37.

HOUSE BILL 37-SPONSOR, REPRESENTATIVE JOE BRAND, introduced the bill to the committee. The bill would abolish the office of the Legislative Fiscal Analyst and authorize the Legislative Council to employ a Budget Analyst.

PROPONENTS

There were no proponents testifying to HB 37.

OPPONENTS

SENATOR ED SMITH arose in opposition to HB 37. A copy of his prepared statement is attached and is EXHIBIT 2 of the minutes.

JUDY RIPPINGALE, Legislative Fiscal Analyst (acting), arose in opposition to the bill. She explained to the committee the functions of the fiscal analyst and the procedure of budget proposal preparation.

REPRESENTATIVE JACK MOORE, member of the Legislative Financial Office, stated his opposition to HB 37.

REPRESENTATIVE ART LUND arose in opposition to HB 37. He said that he had served on the Appropriations committee when they did not have the service of the Legislative Fiscal Analyst. He said that it is much easier now and the office is of great help to the committees. He said that the first year of the Fiscal Analyst Office they trimmed six million dollars off the executive budget.

There were no other opponents to HB 37.

Chairman Feda opened the hearing to questions from the committee.

Representative Spilker said that she did not support the bill, however she felt that Representative Brand had some legitimate points. She said that some of the branches of the legislature such as the Legislative Council, Finance Committee and the Legislative Auditors have

become so autonomous that there is no coordination among the Legislators. Another problem she stated, is getting a list of the reports to the Legislators so they know what is available. She also stated that there is a problem of revenue reviews being made totally independent of the Revenue Committee and the two Taxation Committies.

Further discussion followed.

Representative Brand closed the hearing on House Bill 37.

Chairman Feda opened the hearing on House Bill 66.

HOUSE BILL 66-SPONSOR REPRESENTATIVE BENNETT, explained the bill to the committee. The bill provides that when private property is taken for public use, under the right of eminent domain, the amount of compensation paid to the owner includes interest drawn at a rate of 10% per year from the date the summons is served rather than from the time the owner surrenders possession.

PROPONENTS

DALE McGARVEY, attorney in Kalispell, gave testimony in support of HB 66. A copy of Mr. McGarvey's prepared statement is attached and is EXHIBIT 3 of the minutes.

Mr. Lundogn of Kalispell spoke in favor of the bill stating that he had personally experienced loss in a situation with his property.

OPPONENTS

DEATE GALDA, attorney for the Dept. of Highways, arose in opposition to HB 66. She said that the owner has use of the property until the day of possession. She said in many cases the owner would be getting extra compensation. They still have the income off the property until possession takes place and they would be getting the interest also. She said this bill could make the department of highways in a hurry to take possession and this could be detrimental to the owner.

There were no other opponents testifying on HB 66.

Chairman Feda opened the hearing to questions from the committee.

Discussion followed.

Included in the discussion on HB 66 was updated appraisals, how this situation is handled in other states and depreciation loss to the owner.

Representative Bennett closed the hearing on HB 66.

Chairman Feda opened the hearing on House Bill 72.

HOUSE BILL 72-SPONSOR, REPRESENTATIVE HAL HARPER, explained the bill to the committee. He said that presently 25 other states handle their primary election in this way. He said that when the primary is in June people get very tired of the campaign by the time the general election is held. He said there would probably be a better voter turn-out if this bill passes.

PROPONENTS

MR. GEORGE HARPER, citizen, arose and stated his support of the bill, concurring with Representative Harper.

OPPONENTS

DORRIS SHEPHERD, representing the Montana Assoc. of Counties and speaking for the Clerk & Recorders in Helena, arose in opposition to HB 72. She said that if the primary election date were moved up this would not give the Clerk & Recorders enough time to get the ballots printed.

There were no other opponents to HB 72.

Chairman Feda opened the hearing to questions from the committee.

Included in the discussion was the major changes made in the city primary two years ago. Also it was brought up that this bill does not cover the statutory law that deals with deadlines for filing etc.

Representative Harper closed the hearing on HB 72.

Chairman Feda opened the hearing on House Bill 83.

HOUSE BILL 83-SPONSOR, REPRESENTATIVE MEYER, introduced the bill to the committee. This bill excludes probation and parole officers from the provisions of the state classification plan, authorizes the Department of Insti-

EXECUTIVE SESSION (CONT.)

HOUSE BILL 66 — NO ACTION TAKEN

Representative Smith made the motion that HB 66 DO PASS. Representative Winslow seconded the motion. Following discussion, Representative Pistoria made a substitute motion, seconded by Representative O'Connell, that HB 66 be held in committee until further study of the bill could be made.

A vote was taken and carried unanimously to hold the bill.

HOUSE BILL 72 — DO PASS

Representative Kropp moved that HOUSE BILL 72 DO PASS. Motion was seconded by Representative Briggs.

Representative Sales made a substitute motion that HB 72 DO NOT PASS. The motion was seconded by Representative Smith.

Representative Dussault spoke up in opposition to this motion.

Following discussion a roll call vote was taken. The motion to DO NOT PASS HB 72 failed with a 6 YES and 10 NO vote. The committee voted to reverse the vote.

HOUSE BILL 72 DO PASS - 10 YES 6 NO and 3 members not voting. Representatives that voted NO are: Feda, Mueller, Ryan, Sales, Smith and Winslow.

HOUSE BILL 83 — DO NOT PASS

Representative O'Connell made a motion that HB 83 DO PASS. The motion was seconded.

Representative Mueller made a substitute motion that HB 83 DO NOT PASS. The motion was seconded by Representative Sales.

Following discussion, question called, a vote was taken and carried that HB 83 DO NOT PASS. All members present voted YES except. Representatives O'Connell and Pistoria who voted NO.

EXHIBIT 1

HOUSE STATE ADMINISTRATION
BILL SUMMARIES
JANUARY 13, 1981

HB 37 (BRAND): This bill abolishes the office of the Legislative Fiscal Analyst and authorizes the Legislative Council to employ a Budget Analyst to review the state government budget and to make recommendations to the Legislative Finance Committee, and to other legislative committees responsible for appropriation of public money.

HB 66 (BENNETT): This bill provides that when private property is taken for public use, under the right of eminent domain, the amount of compensation paid to the owner includes interest drawn at a rate of 10% per year from the date the summons is served rather than from the time the owner surrenders possession.

HB 72 (HARPER): This bill changes the date for the primary election held in even-numbered years, before the general election, from the first Tuesday after the first Monday in June to the First Tuesday after the second Monday in September. The presidential primary will be held on the first Tuesday after the first Monday in June under the provisions of this bill.

HB 83 (MEYER): This bill excludes probation and parole officers from the provisions of the state classification plan, authorizes the Department of Institutions to administer a pay plan for these offices, creates a new classification system, and provides for a probationary period and for classifying existing officers.

HB 87 (BURNETT): With respect to county, municipal, and water, sewer, hospital, and school district mill levy questions, 51% of electors qualified to vote in these jurisdictions must vote on the questions and 60% of these voters must vote in favor of the questions for the levies to pass.

3 EXHIBIT 3

H366

Law Offices of
McGarvey, Lence & Heberling
745 South Main
Kalispell, Montana 59901
Telephone (406) 755-5092

Dale L. McGarvey
John A. Lence
Jon L. Heberling

of Counsel
John M. Schilly
Frank B. Morrison, Sr.

January 9, 1981

Honorable Gary Bennett
Montana House of Representatives
State Capitol
Helena, MT 59601

Re: Interest Legislation

Dear Gary:

The points that must be made in support of interest in condemnation judgments are as follows:

1. From the date of the taking the landowners' rights are encumbered by a Notice of Lis Pendens.

2. From the date of the taking he cannot develop his property, he cannot lease his property, he cannot sell his property. The date of the taking is the date of the service of summons.

These are major rights that a landowner ordinarily has. In addition to that, the landowner has to pay taxes on the property, even though he cannot develop, lease or sell it.

In connection with the area between Columbia Falls and West Glacier, at least 10 takings have occurred, and in a lot of these cases the order putting plaintiff in possession has not come down, and will not come down until the new environmental impact statement is determined. A determination should be made as to a two- or four-lane highway. The landowners, in the meantime, do not know whether the highway will be two or four lanes, and they cannot even reasonably develop the remainder of their property.

Under these circumstances the least the state should be required to pay is interest if the state finally goes into possession. You will note that the bill simply states that only if there is an order of possession does the interest

start from the date of the service of summons. Thus, if the state should decide to dismiss the case before they receive possession, no interest would be allowed. This bill is very minimal and the committee should perhaps consider making the interest mandatory from the date of the taking, whether or not the state ever goes into possession, since in any event the landowner's rights are equally encumbered.

I will be in Helena on Monday, January 12, 1981, and will be available to talk to any of the committee members then.

Thank you.

Sincerely yours,

Dale L. McGarvey

VISITORS' REGISTER

HOUSE St. Adm. COMMITTEE

BILL HB366 Date 1-13

SPONSOR

NAME	RESIDENCE	REPRESENTING	SUPPORT	OPPOS
[illegible]	Kalispell	Self	✓	
[illegible]	Kalispell	Myself	✓	
[illegible]	Bozeman	IFA Assn		✓

IF YOU CARE TO WRITE COMMENTS, ASK SECRETARY FOR LONGER FORM.

PLEASE LEAVE PREPARED STATEMENT WITH SECRETARY.

STATE ADMINISTRATION
JANUARY 14, 1981
RM 436

The meeting of the House State Administration Committee was called to order at 8:00 a.m. January 14, 1981, with Chairman Jerry Feda presiding. All members were present except Representative Azzara who was absent and Representative McBride who was present only for the hearings and not for executive session.

Chairman Feda was excused to attend another hearing.

Vice Chairman Sales opened the hearing on House Bill 81.

HOUSE BILL 81-SPONSOR, REPRESENTATIVE PAVLOVICH, introduced the bill to the committee. This bill, requested by the Attorney General, requires individuals or firms who install or service fire extinguishers, fire alarm systems, or fire extinguishing systems to annually renew their licenses or certificates of registration.

PROPONENTS

BOB KELLY, State Fire Marshall, appeared in support of HB 81. Mr. Kelly gave an evaluation of the amendments to the statute. He said the changes came about as the result of the work from three committee; the Committee on Portable Fire Extinguishers, the Committee on Fire Alarms and the Committee on Fire Extinguishing Systems. He explained that because there had been so many problems within the industry with complaints on the service, this annual renewal of licenses has been requested. He stated that annual renewal would help them to keep a better handle on the situation. If the Fire Marshall feels that a certain individual needs to take the examination over, this can be requested. However, no examination is required.

DAVE FISHER, Montana Volunteer Firemen's Assoc., arose in support of the bill.

ART KORN, Montana Volunteer Firemen's Assoc., arose and stated their support of the bill.

OPPONENTS

NEIL FLAHERTY, Leasing Inc., arose in opposition to HB 81. He said that when this act was passed in 1975 the Fire Marshall said that all he wanted was a handle on the people in the business. He said that all this annual fee would do is saddle more cost on the industry. He said that historically when bills are introduced to give more control over an industry, eventually a request

OPPONENTS

There were no opponents to House Bill 97.

Vice Chairman Sales opened the hearing to questions from the committee.

Again, funding of this proposed legislation was discussed. Mr. Nachtsheim said that approximately 16% for the retirement fund comes from salaries and 4% will be requested from the State to pay for this benefit.

Representative Feda closed the hearing on House Bill 97.

EXECUTIVE SESSION

Vice Chairman Sales turned the meeting over to Chairman Feda.

HOUSE BILL 66 DO PASS AS AMENDED

Representative O'Connell made a motion that HB 66 DO NOT PASS. The motion was seconded by Representative Mueller. Following discussion a roll call vote was taken. Motion failed with 7 YES and 8 NO. A record of the vote is recorded on the roll call sheet.

Discussion of proposed amendments followed. A copy of these amendments is attached and is EXHIBIT 2 of the minutes.

Representative Dussault moved that the amendments be adopted. The motion was seconded. A vote was taken and carried unanimously.

Representative Spilker made a motion that HB 66 DO PASS AS AMENDED. Following discussion, question being called, a vote was taken and carried with 14 YES and 3 NO. Representatives Pistoria, O'Connell and Mueller voted NO. Representatives Azzara and McBride did not vote.

HOUSE BILL 87 DO PASS AS AMENDED

Committee researcher, Lois Menzies, explained the propossed amendments to the committee. A copy of these amendments is attached and is EXHIBIT 3 of the minutes.

(2)

AMENDMENTS TO HB 66 EXHIBIT 2

1. Title, Line 7.

Following: "MCA"

Strike: "; and

Insert: "."

2. Title, line 8.

Strike: Line 8 in its entirety

3. Page 3, line 1.

Strike: "Judgements entered"

Insert: "summons served"

4. Page 3, Lines 2 and 3.

Strike: Lines 2 and 3 in their entirety.

STATE OF MONTANA

REQUEST NO. 48-81

FISCAL NOTE

Form BD-15

In compliance with a written request received January 8, 19 81, there is hereby submitted a Fiscal Note for House Bill 66 pursuant to Title 5, Chapter 4, Part 2 of the Montana Code Annotated (MCA). Background information used in developing this Fiscal Note is available from the Office of Budget and Program Planning, to members of the Legislature upon request.

Description of Proposed Legislation

An act changing the time when interest is drawn on an award in a condemnation proceeding from the time possession is surrendered to the time when the summons is served.

Assumptions

1. The Department of Highways is the only state agency affected by the proposed legislation.

2. The calendar year 1979 caseload at the Department of Highways is representative.

Fiscal Impact

	FY 1982	FY 1983	Biennium Total
Interest expense under current law	$137,900	$137,900	$275,800
Interest expense under proposed law	189,600	189,600	379,200
Increased interest expense due to proposed legislation	$ 51,700	$ 51,700	$103,400

The additional expense is to the Earmarked Revenue Fund.

David M Lewis

BUDGET DIRECTOR
Office of Budget and Program Planning
Date: 1-12-80

CL VOT -- TA ADM IST O F H SE TT

1 session DATE JAN.

DP= DO PASS DNP= DO NOT PASS	Date: 1-9 No: HB 38 AMEND.	Date: 1-13 No: HB 72 DNP	Date: 1-13 No: HB 72 reverse DP	Date: 1-15 No: HB 66 DNP	Date: 1-15 No: HB 66 reverse DP	Date: 1-15 No: HB 117 DP	Date: 1-15 No: HB 117 reverse DNP
AZZARA	ABSENT	ABSENT	ABSENT	ABSENT	ABSENT	ABSENT	ABSENT
BRIGGS	YES	NO	YES	YES	NO	YES	NO
DUSSAULT	YES	NO	YES	NO	YES	NO	YES
FEDA	YES	YES	NO	EX	EX	YES	NO
HANSON	YES	EX	EX	YES	NO	NO	YES
HOLLIDAY	YES	NO	YES	NO	YES	YES	NO
KANDUCH	YES	NO	YES	YES	NO	NO	YES
KENNERLY	NO	NO	YES	EX	EX	NO	YES
KROPP	YES	NO	YES	NO	YES	YES	NO
McBRIDE	YES	NO	YES	EX	EX	NO	YES
MUELLER	YES	YES	NO	YES	NO	NO	YES
O'CONNELL	EX	NO	YES	YES	NO	NO	YES
PHILLIPS	NO	NO	YES	NO	YES	NO	YES
PISTORIA	NO	NO	YES	YES	NO	NO	YES
RYAN	YES	YES	NO	NO	YES	NO	YES
SALES	YES	YES	NO	YES	NO	YES	NO
SMITH	YES	YES	NO	NO	YES	YES	NO
SPILKER	EX	EX	EX	NO	YES	NO	YES
WINSLOW	YES	YES	NO	NO	YES	NO	YES
VOTE	13 -3	6-10 FAILS	10-6	7-8 FAILS	8 - 7	6-12 FAILS	12 - 6

FORTY-SEVENTH LEGISLATIVE SESSION

COMMITTEE ON JUDICIARY

HOUSE BILL NO.	ENTERED COMM.	DATE CONSIDERED	OUT OF COMM.	DO PASS DATE	DO NOT PASS DATE	DO PASS AS AMEND. DATE	BE CONCURRED IN DATE	BE CONC. IN AS AMENDED DATE	BE NOT CONCURRED IN DATE
HB 5	2/18/81	3/06/81	3/21/81					3/21/81	
HB 6	1/22/81	3/09/81	3/14/81					3/14/81	
HB 8	1/22/81	3/09/81	3/24/81						3/24/81
HB 9	1/22/81	3/09/81	3/09/81					3/09/81	
HB 10	1/27/81	2/10/81	tabled						
HB 12	3/02/81	3/09/81	3/24/81				3/24/81		
HB 20	3/02/81	3/09/81	3/09/81				3/09/81		
HB 52	1/20/81	2/03/81	2/03/81					2/03/81	
HB 66	1/20/81	2/03/81	3/24/81				3/24/81		
HB 93	1/22/81	3/11/81	3/14/81						3/14/81
HB 96	2/07/81	3/11/81	3/14/81					3/14/81	
HB 99	3/02/81	3/13/81	3/14/81				3/14/81		
HB 110	1/23/81	3/12/81	3/14/81					3/14/81	
HB 138	2/18/81	3/03/81	3/03/81				3/03/81		
HB 138	3/04/81	3/21/81	3/21/81	tabled					
HB 153	1/23/81	3/03/81	3/03/81				3/03/81		

Use a separate sheet for Senate, House Bills, and Resolutions.

MINUTES OF MEETING
SENATE JUDICIARY COMMITTEE
February 3, 1981

The eighteenth meeting of the Senate Judiciary Committee was called to order by Mike Anderson, Chairman, on the above date in Room 331, at 10:00 a.m.

ROLL CALL:

All members were present.

CONSIDERATION OF SENATE BILL 288:

IMPLEMENTING CONSTITUTIONAL AMENDMENT #9, REGARDING CONFIDENTIALITY OF PROCEEDINGS BEFORE THE JUDICIAL STANDARDS COMMISSION.

Senator S. Brown presented the bill, which he described as an attempt to balance public right to know with a judge's right to be free from unfounded allegations. He then spoke to the several sections of the bill, and ended by recommending that this bill be kept in committee until a similar one introduced by Senator Ochsner can be considered at the same time.

CONSIDERATION OF SENATE BILL 182:

REVISE METHOD OF EXECUTION; 46-19-103.

Senator B. Brown, District 10, Whitefish, presented the bill as its sponsor. He feels that hanging is an outdated and cruel method of executing a prisoner. He said that the language of his bill came from the New Mexico and Oklahoma statutes.

Gary Jensen, of the Montana Conference of Seventh Day Adventists, spoke in support of the bill because he felt it presented a more humane, dignified method of execution.

Judy Olson, representing the Montana Nurses Association, stated that nurses won't want to be the ones to administer the lethal injection.

Curt Chisholm, Deputy Director of the Department of Institutions, opposed the bill because he feels that medical personnel will refuse to carry it out, and because the warden does not want the task of performing the injection.

Senator Crippen asked about the condemned man who wants to

have someone present at his execution. Senator B. Brown said that the intent is not to disallow such witnesses, just to reword the law so that their presence is not mandatory.

Senator Olson stated that under no circumstances can a physician take a life deliberately.

Senator O'Hara asked what alternatives existed for carrying out such a death penalty. Discussion then centered around hired executioners, advertising for someone who would be able to and willing to perform the task, and teaching the warden to administer the injection.

CONSIDERATION OF HOUSE BILL 52:

TO CLARIFY THE REVISED MONTANA UNIFORM GIFTS TO MINORS ACT.

Representative Feda, District 4, Glasgow, presented the bill, saying that the probate code had been copied wrong and that this bill merely clarifies the law.

CONSIDERATION OF HOUSE BILL 66:

AN ACT CHANGING THE TIME WHEN INTEREST IS DRAWN ON AN AWARD IN A CONDEMNATION PROCEEDING.

Representative Bennett, District 15, Flathead County, presented the bill. He said the intent of the bill is to correct an iniquity which exists in condemnation actions. Under current law, a landowner who is a defendant in a condemnation action in which the plaintiff is put in possession of the property receives interest on the award of damages as of the day the plaintiff is put in possession by the court. The purpose of the bill is to give the landowner ten percent interest on the award from the day the summons is served in the condemnation action.

Dale McGarvey, Kalispell attorney who represents many landowners in the Flathead area, spoke on behalf of the bill. He pointed out that such landowners lose the advantage of the appreciation of their land when a long time period intervenes between condemnation and possession of the land.

Speaking in opposition to the bill was Beate Galda, attorney for the Department of Highways. She said that usually the Highway Department is in a hurry to obtain possession of the property, so that most time lapses are fairly short. She said that passage of this bill would have the effect of making the Department less apt to negotiate with the landowners because the interest would be accruing during the time

of negotiation.

Bob Gannon, of the Montana Power Company, opposed the bill because of the increased cost in obtaining land which would result from its passage.

Pat Wilson, representing Montco, a new coal mining company, spoke in opposition to the bill because of the increased costs its passage would impose on a beginning company.

In closing, Representative Bennett spoke of the automatic loss by the owner of the full use and enjoyment of his land in any condemnation, and of his right to be compensated for that loss.

DISPOSITION OF HOUSE BILL 52:

David Niss pointed out that the deleted language on page 1 also appears on page 3, lines 5 and 6, and suggested that it be deleted there as well. Senator B. Brown moved to amend House Bill 52 on page 3 by striking all of line 5 and "minor," on line 6. The motion passed unanimously. Senator Crippen moved that the committee CONCUR IN the bill AS AMENDED, and the motion passed unanimously. Senator Crippen will carry the bill on the Senate floor.

FURTHER CONSIDERATION OF HOUSE BILL 66:

Senator Anderson suggested that interest should be paid from the date of service of summons, but offset by any income received during the delay period. Senator S. Brown suggested that interest accrue from the time a district court judgment is received. Senator B. Brown agreed to contact Representative Bennett and Mr. McGarvey relative to the committee's problems with the bill, and final decision will be delayed.

Before adjourning Senator Anderson reminded the committee that further consideration of SB 33 will probably be held on February 11.

Senator Anderson
Chairman, Judiciary Committee

ROLL CALL

JUDICIARY COMMITTEE

47th LEGISLATIVE SESSION - - 1981 Date 2/03/81

NAME	PRESENT	ABSENT	EXCUSED
~~Anderson, Mike, Chr. (R)~~	✓		
O'Hara, Jesse A. (R)	✓		
Olson, S. A. (R)	✓		
Brown, Bob (R)	✓		
Crippen, Bruce D. (R)	✓		
Tveit, Larry J. (R)	✓		
Brown, Steve (D)	✓		
Berg, Harry K. (D)	✓		
Mazurek, Joseph P. (D)	✓		
Halligan, Michael (D)	✓		

Each day attach to minutes.

NAME: Dale L. McGarvey DATE: Feb. 3, 1981

ADDRESS: 745 S. MAIN KALISPELL, MONT.

PHONE: 755-6132

REPRESENTING WHOM? Myself

APPEARING ON WHICH PROPOSAL: H.B. 66

DO YOU: SUPPORT? V AMEND? _____ OPPOSE? _____

COMMENTS: _____

PLEASE LEAVE ANY PREPARED STATEMENTS WITH THE COMMITTEE SECRETARY

NAME: Pat Wilson DATE: 3/3

ADDRESS: 443 S. Park K

PHONE: 443-0379

REPRESENTING WHOM? Montco

APPEARING ON WHICH PROPOSAL: HB 66

DO YOU: SUPPORT? _____ AMEND? _____ OPPOSE? X

COMMENTS: prejudices the judicial review process and places an economic hardship on the plaintiff

PLEASE LEAVE ANY PREPARED STATEMENTS WITH THE COMMITTEE SECRETARY

DATE February 3 1981

COMMITTEE ON Judiciary BILL NO. ~~HB~~ SB 182 HB 52 HB 66 & 288

VISITOR'S REGISTER

NAME	REPRESENTING	Check One: Support	Oppose
Dale F. McEnerny	myself	✓	
[illegible]	[illegible]		
[illegible]	[illegible]		
John W. Hunter	Leg. Auditor		
Pat Stuart	Leg. Coal Counsel		
Bill Hanson	UKC		
Chuck Larson	GF Insurance		
Jerry T. Olson	MT Nurses' Assoc.		✓
B. J. Hannon	MT. Power HB66		✓
Gary Jensen	Mt. Conference of SDA SB 182	✓	
Wilson	Montco HB66		✓

(Please leave prepared statement with Secretary)

(18)

MINUTES OF MEETING
SENATE JUDICIARY COMMITTEE
MARCH 24, 1981

The fifty-first meeting of the Senate Judiciary Committee was called to order by Mike Anderson, Chairman, on the above date in Room 331, at 10:00 a.m.

ROLL CALL:

All members were present.

DISPOSITION OF HOUSE BILL 316:

Senator Mazurek moved to reconsider the action taken March 14, which resulted in a "be not concurred in" vote. He said that this bill merely puts into law what the practice has been since 1975. His motion carried unanimously. Senator Mazurek then moved that the bill BE CONCURRED IN, and his motion passed over the objection of Senators Tveit and Olson.

DISPOSITION OF HOUSE BILL 66:

Senator B. Brown moved that the bill BE CONCURRED IN, and his motion passed with Senators Anderson, O'Hara, Olson, and Berg opposing, as shown on the attached roll call vote.

DISPOSITION OF HOUSE BILL 273:

Senator Crippen moved to amend the bill as shown on the attached Committee Report, and his motion passed over the objection of Senators O'Hara and S. Brown. Senator Berg moved that the bill BE NOT CONCURRED IN, since the law is presently adequate if enforced, and his motion passed over Senator S. Browne' objection.

DISPOSITION OF HOUSE BILL 403:

Senator S. Brown moved to amend the bill as shown on the attached Committee Report, and his motion passed over Senator Tveit's objection. Senator S. Brown then moved that the bill BE CONCURRED IN AS AMENDED, and the motion carried over the objection of Senators Anderson, Olson, Crippen, and Tveit, as shown on the attached roll call vote.

DISPOSITION OF HOUSE BILL 12:

Senator O'Hara moved that the bill BE CONCURRED IN, and his motion passed over the opposition of Senators Halligan, Mazurek, Crippen, and B. Brown.

ROLL CALL

JUDICIARY COMMITTEE

47th LEGISLATIVE SESSION - - 1981 Date March 24, 1981

NAME	PRESENT	ABSENT	EXCUSED
~~Anderson, Mike, Chr. (R)~~	✓		
O'Hara, Jesse A. (R)	✓		
Olson, S. A. (R)	✓		
Brown, Bob (R)	✓		
Crippen, Bruce D. (R)	✓		
Tveit, Larry J. (R)	✓		
Brown, Steve (D)	✓		
Berg, Harry K. (D)	✓		
Mazurek, Joseph P. (D)	✓		
Halligan, Michael (D)	✓		

Each day attach to minutes.

SENATE COMMITTEE JUDICIARY

Date _____ House Bill No. 66 Time 10:18

NAME	YES	NO
Anderson, Mike		✓
O'Hara, Jesse A.		✓
Olson, S. F.		✓
Brown, Bob	✓	
Crippen, Bruce D.	✓	
Tveit, Larry J.	✓	
Brown, Steve		
Berg, Harry K.		✓
Mazurek, Joseph P.	✓	
Halligan, Michael	✓	

Robin Campbell
Secretary

Mike Anderson
Chairman

Motion: Concur in

(include enough information on motion—put with yellow copy of committee report.)

58

STANDING COMMITTEE REPORT

March 24, 19 81

MR. PRESIDENT:

We, your committee on JUDICIARY

having had under consideration HOUSE Bill No. 66

BENNETT (B. BROWN)

Respectfully report as follows: That HOUSE Bill No. 66

~~DO PASS~~
BE CONCURRED IN

Chairman.

Mike Anderson

STATE PUB. CO.
Helena, Mont.

HOUSE BILL NO. 66

INTRODUCED BY BENNETT, KEEDY, HARP, IVERSON, KEYSER, DAILY, PAVLOVICH, KANDUCH, ANDERSON, CONN

A BILL FOR AN ACT ENTITLED: "AN ACT CHANGING THE TIME WHEN INTEREST IS DRAWN ON AN AWARD IN A CONDEMNATION PROCEEDING FROM THE TIME POSSESSION IS SURRENDERED TO THE TIME WHEN THE SUMMONS IS SERVED; AMENDING SECTION 70-30-302, MCA; ~~AND PROVIDING AN IMMEDIATE EFFECTIVE DATE~~."

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

Section 1. Section 70-30-302, MCA, is amended to read:

"70-30-302. Assessing compensation -- date and measure -- interest. (1) For the purpose of assessing compensation, the right thereto shall be deemed to have accrued at the date of the service of the summons, and its actual value as of that date shall be the measure of compensation for all property to be actually taken and the basis of depreciation in value of property not actually taken but injuriously affected. This shall not be construed to limit the amount of compensation payable by the department of highways under the provisions of any legislation enacted pursuant to the federal Highway Beautification Act of 1965.

(2) If an order be made letting the plaintiff into possession, as provided in 70-30-311, the full amount finally awarded shall draw interest at the rate of 10% per annum from the date ~~on which the property owner surrenders possession of the property in accordance with the terms of such order~~ of the service of the summons to the earlier of the following dates:

(a) the date on which the right to appeal to the Montana supreme court expires or, if appeal is filed, to the date of final decision by the supreme court; or

(b) the date on which the property owner withdraws from court the full amount finally awarded.

(3) If the property owner withdraws from court a fraction of the amount finally awarded, interest on such fraction shall cease on the date it is withdrawn but interest on the remainder of the amount finally awarded shall continue to the earlier of the aforesaid dates defined in (2)(a) and (2)(b) of this section until the full amount is withdrawn from the court.

(4) None of the amount finally awarded shall draw interest after the date on which the right to appeal to the Montana supreme court expires.

(5) No improvements put upon the property subsequent to the date of the service of summons shall be included in the assessment of compensation or depreciation in value, nor shall the same be used as the basis of computing such

REFERENCE BILL

compensation or depreciation."

Section 2. Applicability. This act applies to all ~~judgments entered~~ SUMMONS SERVED after the effective date of this act.

~~Section 3. Effective date. This act is effective on passage and approval.~~

-End-